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ATLANTA, GEORGIA 30309-4530

In re Application of
PETER KENINGTON
Serial No.: 09/743,003
PCT No.: PCT/GB99/02110
Int. Filing Date: 02 July 1999
Priority Date: 02 July 1998
Atty. Docket No.: 46309-251562
For: A PREDISTORTER

DECISION ON
RENEWED PETITION
UNDER 37 CFR 1.181

This is a decision on applicant's "Response to Decision on Petition" filed 22 September 2003 in the United States Patent and Trademark Office (USPTO) requesting withdrawal of abandonment of the above referenced application, on the basis that the 23 February 2001 Notification of Missing Requirements was never received.

BACKGROUND

On 23 February 2001, the United States Designated/Elected Office (DO/EO/US) mailed a Notification of Missing Requirements (Form PCT/DO/EO/905) requiring an oath or declaration in accordance with 37 CFR 1.497.

On 25 July 2003, applicant filed a petition requesting that the abandonment of application be withdrawn on the basis that the 23 February 2003 Notification of Missing Requirements was never received.

On 05 September 2003, a decision dismissing the petition under 37 CFR 1.181 was mailed indicating that applicant had not provided a copy of the docket record where the non-received Office action would have been entered had it been received and referenced in practitioner's statement.

On 22 September 2003, the instant "Response to Decision on Petition" was filed along with a law firm mail log.

DISCUSSION

As indicated previously, to withdraw the holding of abandonment, a proper showing is necessary in order to establish that papers were not received. As set forth in the Official Gazette at 1156 OG 53, the proper showing must include the following: (1) a statement by the practitioner that the Office action was not received by the practitioner; (2) a statement attesting that a search of the file jacket and docket records indicates that the Office action was not received; and (3) a copy of the docket record where the non-received Office action would have been entered had it been received (the docket records must also be referenced in practitioner's statement). Applicants have satisfied items (1) and (2) above.

Counsel indicates that "the patent docket system maintained by the firm of Kilpatrick Stockton LLP is "incapable of generating a due-date report for dates that far in the past. That is because that docketing system generates due dates in response to the entered 'base date', namely, the PTO mailing dates of Office actions." The report provided by counsel indicates only one patent matter with a base date of "2/23/2001" for another U.S. application.

Thus, counsel has provided his docket record and explanation, showing all responses docketed for the USPTO mail date of 23 February 2001 showing that there was no record of a USPTO mailing for the present application.

CONCLUSION

Applicant's renewed petition under 37 CFR 1.181 to request to withdraw holding of abandonment is **GRANTED**.

The application will be forwarded to the United States Designated/Elected Office for further processing including issuance of a new Notification of Missing Requirements (Form PCT/DO/EO/905) indicating that an oath or declaration executed by the inventors is required.



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